

[*McQuay v. The Waldinger Corp.*](#), 85-ERA-33 (Sec'y May 30, 1990)

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U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

DATE: May 31, 1990
CASE NO. 85-ERA-33

IN THE MATTER OF

LLOYD MARTIN MCQUAY, JR.,
COMPLAINANT,

v.

THE WALDINGER CORPORATION,
RESPONDENT.

BEFORE: THE SECRETARY OF LABOR

ORDER APPROVING SETTLEMENT AND DISMISSING CASE

This case arises under the employee protection provision of the Energy Reorganization Act of 1974, as amended (ERA), 42 U.S.C. § 5851 (1982), and is before me for review of a Settlement Agreement entered into by the parties.

On March 29, 1990, I issued an Order to Show Cause. As I explained in that order:

Paragraph 6 of the settlement requires Complainant to "refrain from any voluntary participation in any

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employment discrimination proceedings against [Respondent], and [to] refrain from providing any information of any kind about (Respondent) to any individuals, organizations or private or governmental agencies." Paragraph 7 of the settlement requires Complainant to "refrain from encouraging, assisting, persuading or attempting to persuade other persons to commence discrimination in employment proceedings or claims against [Respondent]."

Paragraphs 6 and 7 of the settlement here would restrict complainant from providing information to the Nuclear Regulatory Commission (NRC) or any other agency. Such information could be relevant and material to law enforcement investigations by the NRC or other agencies, including investigations by the Department of Labor under the ERA or other laws. Paragraphs 6 and 7 also would prohibit Complainant from voluntarily testifying, taking part in or assisting in any law enforcement proceeding involving an alleged violation of the ERA.

Slip op. at 2.

Accordingly, I found paragraphs 6 and 7 of the parties' Settlement Agreement (Settlement) void as against public policy to the extent that those paragraphs would restrict Complainant from communicating to federal or state enforcement authorities concerning alleged violations of the ERA or other laws. The Order to Show Cause gave the parties 30 days to show cause why paragraphs 6 and 7 should not be severed and the remainder of the Settlement Agreement approved and this case dismissed with prejudice.

The parties have not filed any response to the Order to Show Cause. Accordingly, paragraphs 6 and 7 of the settlement are severed to the extent that they would restrict Complainant from communicating to federal or state enforcement authorities concerning alleged violations of the ERA or other laws. I find the remainder of the settlement to be fair, adequate and reasonable and it is approved as provided in the Order to Show Cause. This case is dismissed With prejudice. Settlement Agreement, paragraph 4.

SO ORDERED.

ELIZABETH DOLE
Secretary of Labor

Washington, D.C.